

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14539, of Andrea and Laurence Gibbons, pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the lot occupancy requirements (Sub-section 3303.1) and the side yard requirements (Sub-section 3305.1) to construct a new dwelling in a R-2 District at premises 4118 Garrison Street, N.W., (Square 1738, Lot 23).

HEARING DATE: January 21, 1987

DECISION DATE: January 21, 1987 (Bench Decision)

FINDINGS OF FACT:

1. The site, known as premises 4118 Garrison Street, N.W., is located on the south side of Garrison Street between 41st and 42nd Streets, N.W. The site is in an R-2 District.

2. The site is rectangular in shape with a frontage of 30 feet along Garrison Street and a depth of 183.25 feet. A 15 foot wide public alley is located to the rear of the site. The site is vacant and unimproved.

3. The site existed as a separate lot of record on May 12, 1958, the effective date of the current Zoning Regulations

4. The applicants have owned and occupied the adjacent premises at 4116 Garrison Street for 10 years.

5. The R-2 District extends in all directions from the site. The areas is developed primarily with single family detached homes. An R-4 followed by a C-2 District are located to the west of the site.

6. Pursuant to Paragraph 8207.11 of the Zoning Regulations, the applicants are seeking area variances from the lot occupancy requirements (Sub-section 3303.1) and the side yard requirements (Sub-section 3305.1) to construct a single family dwelling on the site.

7. The proposed structure will be 22 feet wide by 55 feet long. A four foot side yard will be provided on both sides of the house.

8. All the lots in the 4100 block on the southside of Garrison Street are of comparable size to the subject lot. They are improved with structures similar in dimensions to the proposed structure.

9. By letter dated December 30, 1986, Advisory Neighborhood Commission (ANC) 3E reported that it voted in favor of the application provided that: (a) the proposed structure will be used only as a single family residence, not as a doctor or dentist's office and (b) all construction activities generating noise will be limited to 8:00 A.M. to 8:00 P.M. The ANC reported that the applicant had demonstrated that the exceptional narrowness of the lot constitutes a peculiar and exceptional practical difficulty and that with the provision of the above mentioned conditions the relief requested can be granted without substantial detriment to the public good and without substantial impairment to the intent, purpose and integrity of the zone plan. The Board concurs with the reasoning and recommendation of the ANC but finds that it is beyond the authority of the Board to condition the application as proposed above. The Board does note that the applicant has submitted a written statement to the file to the effect that he has no intention of establishing a dentist's office at the site.

10. There was no opposition to the application at the public hearing or of record.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the relief requested can be granted without substantial detriment to the public good and that it will not substantially impair the intent, purpose and integrity of the zone plan.

The Zoning Regulations allow a lot occupancy of 40 percent or 2,197.8 square feet. The proposed structure will occupy 2,920 square feet exceeding the allowed occupancy by 722.2 square feet or 32.8 percent. The Zoning Regulations require side yards of eight feet. The structure will provide side yards of four feet on each side necessitating a variance of 4 feet, or 50 percent.

The Board concludes that the applicants have met the burden of proof. The lot is unusually narrow. Further, the lot is a nonconforming lot created prior to the effective date of the current Zoning Regulations. It cannot be enlarged on either side as both adjacent lots are occupied by dwellings located near the lot lines. The Board further concludes that granting the proposed relief will not cause substantial detriment to the public good and will not

substantially impair the intent, purpose and integrity of the zone plan.

The Board further concludes that it has accorded to the ANC the "great weight" to which it is entitled. Accordingly it is hereby ORDERED that the application is GRANTED SUBJECT to the CONDITION that construction shall be in accordance with the plans marked as Exhibit No. 8 of the record.

VOTE: 5-0 (Charles R. Norris, John G. Parsons, Paula L. Jewell, William F. McIntosh and Carrie L. Thornhill to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: MAR 5 1987

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

14539order/LJP16

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14519order/LJP17